

_____ BILL NO. _____

INTRODUCED BY _____
(Primary Sponsor)

A BILL FOR AN ACT ENTITLED: "AN ACT CREATING FINANCIAL SECURITY FOR MONTANA CHILDREN THROUGH THE USE OF CHILD ACCOUNTS; PROVIDING STATE FUNDING AND MATCHING FUNDS FOR THE ACCOUNTS; ESTABLISHING REQUIREMENTS FOR THE ACCOUNTS; PROVIDING RULEMAKING AUTHORITY; PROVIDING AN APPROPRIATION; AND PROVIDING AN EFFECTIVE DATE AND AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Purpose. The purpose of [sections 1 through 8] is to establish the Montana children's financial security program by creating universal children's savings accounts. The state shall provide the initial contribution for all children born in Montana in order to encourage children and their parents to save money and accumulate assets for the child's transition to adulthood.

NEW SECTION. Section 2. Definitions. As used in [sections 1 through 8], the following definitions apply:

- (1) "Account provider" means:
- (a) a bank as defined in 32-1-102;
 - (b) a building and loan association as defined in 32-2-101;
 - (c) a credit union as defined in 32-3-102; or
 - (d) any other entity approved by the state treasurer to hold child accounts based on a finding that the entity:
 - (i) is subject to sufficient government or regulatory oversight;
 - (ii) possesses suitable internal controls to ensure the safety and soundness of the money held in the child accounts; and
 - (iii) is capable of providing the same level of protection of a customer's personal information as a bank or a credit union.
- (2) "Certificate" means a certificate issued by the state on behalf of an eligible child that enables

1 participation in the program established in [sections 1 through 8].

2 (3) "Child account" means an account established on behalf of an eligible child with an account provider
3 in accordance with the provisions of [sections 1 through 8].

4 (4) "Cost-of-living adjustment" means an adjustment made to reflect changes in the consumer price index
5 for urban wage earners and workers, compiled by the bureau of labor statistics of the United States department
6 of labor.

7 (5) "Eligible child" means a child born on or after January 1, 2010, as a resident of this state.

8 (6) "Qualified eligible child" means an eligible child who is a resident of this state and whose family
9 household income was 250% or less of the federal poverty level in the preceding calendar year.

10 (7) "Resident" means a person who meets the rules of residency established 1-1-215.

11 (8) "Responsible person" means:

12 (a) an individual who has parental responsibility for an eligible child; or

13 (b) for an account established pursuant to [section 4(4)], the state treasurer or the treasurer's designee.

14 (9) "State" means the state of Montana.

15 (10) "State treasurer" means the director of the department of administration acting in the director's role
16 as ex officio state treasurer pursuant to 2-15-1002.

17
18 **NEW SECTION. Section 3. Child accounts -- requirements -- restrictions.** (1) An account may be
19 treated as a child account only if it is opened with an account provider through a written instrument stating that:

20 (a) the account is held by the responsible person as custodian for the benefit and in the name of the
21 designated eligible child;

22 (b) the account is the sole child account held for the benefit of the eligible child;

23 (c) the eligible child is entitled to any investment earnings accrued to the account, including all income
24 and gains arising from any investment of the account;

25 (d) the responsible party named in the written instrument is the only person who may provide instructions
26 to the account provider regarding management of the account; and

27 (e) the assets in the account may not be assigned or alienated.

28 (2) (a) Except for the initial state contribution provided for in [section 5], the aggregate contributions to
29 a child account in any calendar year may not exceed \$2,000.

30 (b) The aggregate contribution limit must be increased by the state treasurer annually by the

1 cost-of-living adjustment, beginning January 1, 2011.

2 (3) (a) Except as provided in subsection (3)(b), a withdrawal may not be made from the child account
3 before the eligible child reaches the age of 18.

4 (b) If the eligible child dies before the age of 18, the account funds must be distributed as provided in
5 [section 5].

6 (4) (a) An account provider shall provide a statement of the account to each eligible child and
7 responsible person at least once a year within 60 days after the end of the calendar year to which the statement
8 relates.

9 (b) The statement must identify:

10 (i) the contributions made during the calendar year;

11 (ii) total contributions made to the account; and

12 (iii) the value of the account.

13 (c) If a child account is transferred to another account provider, the statement required under this
14 subsection (4) must be provided to the new account provider on the effective date of the transfer.

15 (5) Child account assets may not be considered for purposes of determining eligibility for any state
16 benefits, including student financial assistance and health care benefits.

17 (6) Personally identifiable information concerning an eligible child and the responsible person for an
18 account must be confidential except as provided by rule for purposes related to the administration of the program
19 established in [sections 1 through 8].

20 (7) The following actions are prohibited as they relate to a child account:

21 (a) an assignment of or agreement to assign an interest in a child account;

22 (b) a pledge or use of an interest in the account as collateral or security for a loan; and

23 (c) if the eligible child or responsible person files for bankruptcy, a claim against the account by a trustee
24 or other person acting on behalf of the creditors of the eligible child or responsible person.

25
26 **NEW SECTION. Section 4. Opening and transfers of child accounts.** (1) The state treasurer shall
27 issue a certificate in the name of each eligible child upon the birth of the child. The certificate must be issued to
28 the responsible person.

29 (2) A responsible person may establish a child account for the eligible child named in the certificate by
30 submitting to an account provider the certificate and a written application meeting the conditions established in

1 [section 3].

2 (3) An account provider who has received an application and a certificate pursuant to this section shall
3 open a child account and notify the state treasurer of the account.

4 (4) (a) If a responsible person has not redeemed a certificate within 12 months of its issuance, the state
5 treasurer shall open an account for the eligible child for whom the certificate was issued.

6 (b) The state treasurer or the treasurer's designee shall act as the responsible person for an account
7 established pursuant to this subsection (4).

8
9 **NEW SECTION. Section 5. Child account contributions, withdrawals, and distributions.** (1) The
10 state treasurer shall make a \$500 payment to an account provider that has received a certificate for an eligible
11 child. The payment must be made within 30 days of the surrender of the certificate, and the account provider shall
12 deposit the payment in the child account.

13 (2) In any calendar year, a person, a state or local government, or a nonprofit organization that is exempt
14 from taxation under 26 U.S.C. 501(c)(3) may make additional contributions to a child account for the benefit of
15 the eligible child. The contributions are subject to the annual contribution limit established in [section 3].

16 (3) (a) The state shall match the amount of contributions made to a child account for a qualified eligible
17 child on a dollar-for-dollar basis each calendar year up to a maximum of:

18 (i) \$250 a year in the first year of the account; and

19 (ii) \$100 a year in subsequent years.

20 (b) The state matching contribution is subject to the aggregate contribution limit established in [section
21 3].

22 (c) A matching contribution may not be made to the child account of a child who is no longer a resident.

23 (d) Use of the matching funds is subject to the limitations established in subsection (4).

24 (4) (a) An eligible child may withdraw all or a portion of the child account funds when the child reaches
25 the age of 18. Withdrawals may be made only to:

26 (i) pay for postsecondary education or training;

27 (ii) purchase a first home;

28 (iii) purchase a vehicle for transportation to work or to postsecondary education or training;

29 (iv) start a small business; or

30 (v) fund a retirement account.

(b) State matching funds that were deposited in the child account of a qualified eligible child may be used for any of the purposes listed in subsection (4)(a)(i) through (4)(a)(iv) only if the education, training, purchase, or small business is obtained or started in Montana.

(5) Except as provided in subsection (6), no other person, including the responsible person, may request a withdrawal at any time.

(6) If a child with a child account dies before the age of 18, the assets of the account must be distributed to the child's estate as provided by law.

NEW SECTION. Section 6. Child account fees and taxation. (1) (a) Annual fees for the management and other expenses related to a child account may not exceed 1.5% of the net asset value of the account. The limitation applies to sales charges, fees, and expenses related to any investment fund in which the child account's assets are invested.

(b) Fees assessed under this subsection (1) must be deducted from the child account.

(2) Contributions made to a child account:

(a) may not be included in the eligible child's gross income for state income tax purposes; and

(b) must be treated for state gift and estate tax purposes as a completed gift to the eligible child that is not a future interest in property.

(3) A state income tax deduction or loss may not be allowed for contributions to or withdrawals from the account.

NEW SECTION. Section 7. Fraud or misrepresentation unlawful -- penalties. (1) It is unlawful for a person to use fraudulent, manipulative, or deceptive practices or to purposely or knowingly make a misrepresentation in connection with an account or with the qualification to be an account provider.

(2) The department of administration may begin administrative proceedings under the provisions of Title 32 for a violation of this section and may seek and obtain civil penalties in connection with a violation.

(3) (a) The maximum penalty for each act or misrepresentation that was purposely or knowingly made in violation of this section is \$5,000 for an individual and \$50,000 for an entity.

(b) The maximum penalty for each act or misrepresentation that was made with fraudulent intent is \$50,000 for an individual and \$250,000 for an entity.

1 **NEW SECTION. Section 8. Rulemaking.** The state treasurer shall adopt rules for implementation of
2 [sections 1 through 8], including but not limited to:

- 3 (1) the entities other than banks and credit unions that may be account providers;
4 (2) the manner in which an account provider shall notify the state treasurer of the creation of a child
5 account when a certificate is submitted to the account provider;
6 (3) the ways in which the state treasurer will determine the identity and address of each eligible child and
7 the child's responsible person;
8 (4) the procedures for allowing an individual who has parental responsibility for an eligible child to
9 become the responsible person for a child account;
10 (5) the procedures for handling a change in the responsible person if the person resigns from the position
11 of responsibility, is incapacitated, or dies;
12 (6) determining whether a child is a qualified eligible child for purposes of matching funds; and
13 (7) the manner in which matching contributions will be made to a child account.
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15 **NEW SECTION. Section 9. Appropriation.** There is appropriated \$3.25 million from the general fund
16 to the department of administration in fiscal year 2010 and \$6.5 million in fiscal year 2011 to implement and
17 develop the Montana children's financial security program pursuant to [sections 1 through 8].
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19 **NEW SECTION. Section 10. Codification instruction.** [Sections 1 through 8] are intended to be
20 codified as an integral part of Title 32, and the provisions of Title 32 apply to [sections 1 through 8].
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22 **NEW SECTION. Section 11. Effective date.** [This act] is effective July 1, 2009.
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24 **NEW SECTION. Section 12. Applicability.** [This act] applies to children born on or after January 1,
25 2010.
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